

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	CR.No. 14-10363-RGS
)	
Plaintiff)	
)	
v.)	
)	
MICHELLE THOMAS and KATHY S. CHIN,)	
)	
Defendants.)	
)	

DEFENDANT THOMAS and CHIN's REPLY TO "GOVERNMENT'S PROPOSED NEUTRAL DESCRIPTION OF THE CASE"

Defendants MICHELLE THOMAS and KATHY CHIN, by and through their respective attorneys of record, and for themselves alone, who are charged with violations of the Food Drug and Cosmetic Act, to wit: dispensing drugs without a valid prescription, submit this reply to the government's Proposed Neutral Description of the Case.

Severance of the charges against these defendants may be the only fair remedy if the government is going to present evidence of injuries and death, as its summary of the case suggests:

The indictment charges former owners and employees of the now-defunct New England Compounding Center, Inc., or NECC, with various criminal offenses following a wide-scale outbreak of fungal meningitis. The outbreak was traced back to contaminated vials of a drug called methylprednisolone acetate, or MPA, manufactured and sold by NECC. 793 people around the country died or suffered serious injuries after being injected with NECC's contaminated drug.

The government's summary further suggests that the evidence in the case will show that "[s]ome of the defendants are also charged

with, or of violating provisions of the Food, Drug, and Cosmetic Act by introducing *adulterated contaminated* or misbranded drugs into interstate commerce, and dispensing drugs without valid prescriptions" *emphasis added*.

Ms. THOMAS and Ms. CHIN had nothing to do with the clean room, the drugs therein, or any *adulterated or contaminated* drugs. Once again, the government's attempt in fashioning its case to prejudice all defendants, regardless of the specific charges against each one of these defendants, raises questions of whether severance is appropriate and necessary. See Zafiro v. United States, 506 U.S 534, 539 (1993).

Date: September 21, 2018

Respectfully submitted,

Michelle Thomas
By her Attorney

Kathy S. Chin
By her Attorney

s/ Michael C. Bourbeau

Michael C. Bourbeau #545908
Bourbeau & Bonilla, LLP
80 Washington St., Bldg.K
Norwell, MA 02061
(617) 350-6565

/s/ Joan M. Griffin

Joan M. Griffin BBO#549522
P.O. Box 133
Dublin, NH 03444
(617) 283-0954

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on the above date.

S/ Michael C. Bourbeau